

1 PATRICK M. RYAN (SBN 203215)
pryan@bzbm.com
2 STEPHEN C. STEINBERG (SBN 230656)
ssteinberg@bzbm.com
3 GABRIELLA A. WILKINS (SBN 306173)
gwilkins@bzbm.com
4 BARTKO ZANKEL BUNZEL & MILLER
A Professional Law Corporation
5 One Embarcadero Center, Suite 800
San Francisco, California 94111
6 Telephone: (415) 956-1900
Facsimile: (415) 956-1152
7
8 Attorneys for Plaintiffs CISCO SYSTEMS, INC.,
CISCO TECHNOLOGY, INC. and CIENA
CORPORATION

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

13 CISCO SYSTEMS, INC., CISCO
14 TECHNOLOGY, INC. and CIENA
CORPORATION.

15 Plaintiffs.

11

17 SHENZHEN USOURCE TECHNOLOGY CO.,
18 SHENZHEN WAREX TECHNOLOGIES CO.,
19 LTD. and WAREX TECHNOLOGIES
LIMITED.

20 Defendants.

Case No. 5:20-cv-04773-EJD

**DECLARATION OF SECOND WITNESS
IN SUPPORT OF PLAINTIFF CIENA
CORPORATION'S EMERGENCY *EX
PARTE* MOTION FOR TEMPORARY
RESTRAINING ORDER, ASSET FREEZE
ORDER, EXPEDITED DISCOVERY,
ORDER PERMITTING ALTERNATIVE
SERVICE OF PROCESS, AND ORDER
TO SHOW CAUSE RE: PRELIMINARY
INJUNCTION**

Date:

Time:

Courtroom: 4

The Honorable Judge Edward J. Davila

**REDACTED VERSION OF
DOCUMENT SOUGHT TO BE SEALED**

1 I, [REDACTED], hereby declare as follows:

2 1. I am familiar with the matters set forth in this declaration based upon my own
3 personal knowledge. If called as a witness, I could and would competently testify to the following
4 facts.

5 2. I submit this declaration in support of Plaintiff Ciena Corporation's Emergency *Ex*
6 *Parte* Motion for Temporary Restraining Order, Asset Freeze Order, Expedited Discovery, Order
7 Permitting Alternative Service of Process, and Order to Show Cause Re: Preliminary Injunction.

8 3. I have determined that the purported Ciena® brand pluggable transceiver modules
9 ("Ciena transceivers") purchased by [REDACTED] from Defendants Shenzhen Usouce Technology
10 Co. ("Usouce") and Shenzhen Warex Technologies Co. and Warex Technologies Limited
11 (together, "Warex") (collectively "Defendants") are unauthentic, in that they were not
12 manufactured by Ciena or by someone associated with Ciena, as these transceivers, including their
13 sticker labels, housing, packaging, and electrically erasable programmable read-only memory
14 ("EEPROM"), exhibit characteristics that differ from genuine Ciena transceivers and also lack
15 elements that genuine Ciena transceivers would have.

16 **Experience and Qualifications**

17 4. I hold a Master of Applied Science in Electrical and Computer Engineering and
18 Photonics from Dalhousie University in Canada, and a Bachelor of Engineering in Electronics and
19 Information Engineering from Jinan University in China.

20 5. I began my professional career in 2009 as an optical device engineer for Jilong
21 Optical Communication Co., Ltd. in China. From 2010 through 2016, I worked as a fiber optic
22 engineer for OZ Optics Ltd., where I developed and designed custom optical components,
23 performed optical tests and verified optical characteristics of fiber optics equipment, among other
24 responsibilities.

25 6. In 2016, I joined Ciena as an optical component engineer, and my responsibilities
26 included qualifying OEM pluggable transceivers from quality and reliability perspectives and their
27 production line where Ciena transceivers are manufactured. In January 2019, I was promoted to
28

1 be a pluggable hardware engineer, such that I am now responsible for qualifying OEM pluggable
 2 transceivers to make sure their functional performances meet Ciena specifications.

3 **Manufacturing, Labeling and Monitoring of Genuine Ciena Transceivers**

4 7. A transceiver is an electronic device that uses fiber optic technology to transmit and
 5 receive data. A transceiver encodes and decodes data by converting an electrical signal into light
 6 pulses and then sends the data through a fiber optic cable, where it is received at the other end and
 7 converted back into an electrical signal. There are many models of Ciena transceivers which range
 8 in size, price, and functionality. Every Ciena transceiver, however, is designed to meet and exceed
 9 industry standards for quality, reliability, safety, and performance, which vary depending on the
 10 industry.

11 8. Ciena's products are manufactured by, or often contain components that are
 12 manufactured by, third-party vendors called original equipment manufacturers ("OEMs"). Every
 13 OEM that Ciena utilizes is heavily vetted and scrutinized. The majority of authentic Ciena
 14 transceivers are manufactured by a number of OEMs, one of which is [REDACTED], mentioned
 15 below. These OEMs utilize specialized equipment and heavily-tested processes to produce a
 16 consistent, high-performing product on which consumers rely.

17 9. Ciena places strict control requirements on its OEMs, each of whom must adhere to
 18 high-quality manufacturing and distribution standards. These standards ensure that the product
 19 design meets feature specifications throughout the manufacturing lifecycle. Before a single
 20 product is shipped to a customer, Ciena conducts performance testing on OEM transceiver
 21 modules to make sure the designed product meets Ciena and industry standard specifications to
 22 qualify as a Ciena transceiver. System level qualification testing is followed to make sure the
 23 OEM transceiver modules are compatible with and work properly with other equipment in a Ciena
 24 network configuration. Last but not least, a first-piece-evaluation is conducted to ensure the OEM
 25 manufacturing follows the directed EEPROM programming. After the product is approved for
 26 customer shipment, Ciena also ensures that each manufacturing facility maintains ongoing
 27 reliability monitoring and meets its quality standards by subjecting each to stringent audits. OEMs
 28 must maintain detailed production data records for each serialized product and must log product

1 movement throughout the supply chain, which gives Ciena the ability to support customers via
2 serial number traceability. OEMs participate in regular business reviews that comprehensively
3 examine the manufacturer's practices and procedures and identify areas for improvement.

4 10. Ciena provides extensive label requirements to its manufacturers that cover
5 everything from product identifications and codes to label size and text size to manufacturing
6 information. Many of these requirements can help Ciena to identify counterfeit products. For
7 example, [REDACTED]

8 [REDACTED]
9 [REDACTED]
10 [REDACTED]



11 11. Every Ciena transceiver also contains an EEPROM which contains Ciena-specific
12 data. The EEPROM content of an authentic Ciena transceiver [REDACTED]

13 [REDACTED]
14 [REDACTED]
15 [REDACTED] The
16 absence of any of this data on an EEPROM is evidence that the product is inauthentic, as is the
17 presence of any incorrect information.

18 12. Ciena has expert engineers who can analyze and test products to see if they are
19 genuine Ciena products, including myself.

20 **Investigation of Counterfeit Products**

21 13. As part of our investigation into potentially counterfeit Ciena transceivers being
22 offered online, [REDACTED] from Rowan TELS made purchases from Defendants.

23 14. For each purchase of a suspect Ciena transceiver from Defendants, the product was
24 delivered by the Defendant to an address in [REDACTED] Under a stringent chain of

1 custody, each suspect product was then shipped to Ciena's testing facility located at Building C,
 2 383 Terry Fox Dr., Ottawa, Ontario, K2K 0L1, Canada. I evaluated each product and determined
 3 (for the reasons set forth in the following paragraphs) that every one of these products was in fact
 4 inauthentic, in that it was not manufactured by Ciena or someone associated with Ciena. To
 5 confirm my analysis, I also shared the serial number of the suspect transceivers with the OEM that
 6 was identified in the inauthentic top label, if any. The OEM also determined that the suspect
 7 transceiver was inauthentic.

8 **Products from Defendant Usource**

9 15. I understand that [REDACTED] purchased two transceivers from Usource, and that
 10 Usource advertised and offered these as Ciena-brand transceivers. Usource sent these suspect
 11 transceivers to [REDACTED] in [REDACTED]. [REDACTED] then sent one of the transceivers
 12 to me at the aforementioned address where I analyzed it.

13 16. Specifically, [REDACTED] purchased and sent me the following transceiver from
 14 Usource:

Part Number	Serial Number
Ciena SFP-10G-LR	O20200507897

15 17. On July 6, 2020, I examined the suspect transceiver received from Usource. It had a
 16 top label that bore the Ciena name and logo. However, I determined that this transceiver sold by
 17 Usource is not a genuine Ciena product. I then prepared an analysis and assessment detailing my
 18 findings.

19 18. The suspect transceiver sold by Usource is clearly inauthentic, in that it was not
 20 manufactured by Ciena or by someone associated with Ciena, due to the many differences
 21 between it and authentic Ciena transceivers. These differences include, but are not limited to:
 22 [REDACTED]
 23 [REDACTED]
 24 [REDACTED]
 25 [REDACTED]
 26 [REDACTED]
 27 [REDACTED]
 28 [REDACTED]

1 [REDACTED]
 2 [REDACTED]
 3 **Products from Defendant Warex**

4 19. I understand that [REDACTED] purchased four transceivers from Warex, and that
 5 Warex advertised and offered these as Ciena-brand transceivers, including that they would read
 6 electronically as Ciena products when inserted into a Ciena host device. Warex sent these suspect
 7 transceivers to [REDACTED] in [REDACTED]. [REDACTED] then sent one of each
 8 transceiver model to me at the aforementioned address where I analyzed them.

9 20. Specifically, [REDACTED] purchased and sent me the following transceivers from
 10 Warex:

Part Number	Serial Number
XCVR-S00Z85-C	WX1150124412
XCVR-S10V31-C	WX1150124402

11 21. On July 6, 2020, I examined the two suspect transceivers received from Warex.
 12 Each suspect transceiver had a top label that bore the product part numbers: "XCVR-S00Z85-C"
 13 or "XCVR-S10V31-C." The XCVR-S00Z85 and XCVR-S10V31 are two of Ciena's well-known
 14 transceivers, [REDACTED]
 15 [REDACTED]
 16 [REDACTED]. However, I determined that these transceivers
 17 sold by Warex are not genuine Ciena products. I then prepared an analysis and assessment
 18 detailing my findings.

22 22. I subsequently provided the serial numbers to [REDACTED], the OEM identified in
 23 the product serial number on the counterfeit top label. [REDACTED] confirmed that the serial
 24 numbers do not correspond to genuine Ciena transceivers, and thus, confirmed my assessment that
 25 both suspect transceivers were inauthentic.

26 23. The suspect transceivers sold by Warex are clearly inauthentic, in that they were
 27 not manufactured by Ciena or by someone associated with Ciena, due to the many differences
 28 between them and authentic Ciena transceivers. These differences include, but are not limited to:
 2790.000/1543462.1

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED] [REDACTED]
10 [REDACTED]

11 *****

12 24. In summary, all of the products listed above and purchased from Defendants share
13 various distinctive characteristics that distinguish them from genuine products manufactured by or
14 for Ciena. Those distinctive characteristics do not and could not appear on authentic Ciena
15 transceivers. It is therefore my firm conclusion that all of the suspect transceivers sold by
16 Defendants are inauthentic.

17 I declare under penalty of perjury under the laws of the United States of America that the
18 foregoing is true and correct.

19

20 Executed on August 6, 2020

21

22

23

24

25

26

27

28